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SUBJECT: THE RUSSIAN NGO LAW ONE YEAR LATER

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Summary  
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¶1. (SBU) More than year after the implementation of controversial amendments with tougher reporting requirements for Russian non-governmental organizations, the fears of extensive, politically-motivated NGO closures have not materialized. A USAID-funded study, civil society assessments and Embassy observations indicate: only 32 percent of Russian NGOs are in compliance, with foreign financed human rights organizations more capable than most of fulfilling the GOR requirements. Small, often service-oriented NGOs are disproportionately affected, with some choosing to operate as non-legal entities instead. While noncompliance leaves most NGOs vulnerable to prosecution, there is no evidence of a GOR campaign to use the amendments to shutter NGOs. However, there are instances of localized conflicts with the Federal Registration Service and a few cases that appear politically motivated. Complicating assessments of the amendments has been the absence of reliable statistics on the number of active NGOs. The endemic institutional weakness of Russian NGOs have magnified the effects of the amendments. We will continue to urge GOR modifications to the amendments that will help bring NGOs into legal compliance, in a manner that does not impinge upon their ability to operate transparently and effectively. End Summary.

ICNL Assessment of NGO Law  
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¶2. (SBU) The results of a December 2007 USAID-supported study by the International Center for Not-for-Profit Law (ICNL), assessing the cumulative impact of the new April 2006 reporting requirements for Russian NGOs, broadly tracks with the impressions of the Embassy and other long standing observers of Russian civil society. (Note: This cable does not assess the registration law's effect on international NGOs, with all of those American NGOs in contact with the Embassy having secured registration by the end of October 2006.) The report's key findings include:

-- Only 32 percent of Russian NGOs are in compliance with the reporting requirements. ICNL notes that the high level of noncompliance suggests a large number of inactive NGOs.

-- Human rights organizations - particularly Western financed NGOs - are more likely and more capable of meeting the higher reporting standard.

-- The burden of the new reporting requirements falls disproportionately on small NGOs, which suffer from a shortage of staff, institutional capacity, and even rudimentary understanding of the legislative requirements.

-- While noncompliance leaves NGOs vulnerable to prosecution, there is no evidence that the Federal Registration Service (FRS) has systematically fined or taken actions to close organizations that have failed to file reports on time or accurately.

-- There is no evidence of the law being disproportionately applied to the detriment of human rights groups; however, the nature of the reporting requirements and the law's ambiguity with respect to certain provisions allow government officials "excessive discretion" in interpreting and enforcing the new measures.

#### Who Suffers: Small NGOs Without Foreign Financing

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13. (SBU) Observers broadly agree with the ICNL conclusion that the law disproportionately burdens small NGOs, which lack the staff and resources to file accurate reports. By law the NGO must file an annual report detailing its activities for the next year. Foreign NGOs must also complete quarterly financial reports indicating their funding sources. In a September assessment, the Center for the Development of Democracy and Human Rights (CDDHR) noted that NGO registration documents comprise at least 60 pages. Even minor changes in the organization's CEO or address require submission of notarized documents within three days of the change. A delay could result in a substantial fine, and two fines could result in de-registration. However, no organization to date has been fined or de-registered for failure to comply. The FRS has new authority to audit NGOs for compliance with the new law. The CDDHR report indicates that from January to April, FRS audits had discovered

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violations by 6,000 NGOs although most of the violations minor in nature (e.g., missing protocols or improper paperwork).

14. (SBU) According to both Moscow Helsinki Group (MHG) Director Lyudmila Alekseeva and World Wildlife Fund Director Igor Chestin, the "innocent bystanders" in the registration process are the small, often service-oriented organizations, which were never the target of GOR suspicions of "orange revolutions." In contrast, Alekseeva told us that all major human rights and environmental organizations had survived unscathed, with MHG itself "untouched" by the new process. For those without the technical assistance at hand, however, compliance has been difficult and exacerbated by a lack of resources to obtain the expertise. The seven-person environmental NGO Baikal Ecological Wave told us that it needed to hire two individuals to deal with reporting requirements and to ensure compliance with tax and labor laws.

15. (SBU) Some NGOs have reportedly decided to forego formal registration and operate instead as non-legal entities or "movements." While these groups are restricted in what they can do, and are prevented from opening bank accounts or renting space as an organization, they can still legally operate. MHG confirmed this trend, with Alekseeva giving two examples -- "Mothers of Children in Wheelchairs" and "Union of Deceived Investors" -- who jettisoned the registration process and MHG office space for their meetings. Alekseeva noted the irony that registering as an NGO increased an organization's vulnerability, whereas operating as a non-legal entity (with the attendant restrictions) left activists better protected.

#### The Fall-Out Is Small

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16. (SBU) While the 2006 amendments could be deployed to shut down NGOs, our contacts have not noticed a systematic effort by authorities to do so. INCL's Daria Miloslavskaya

recounted scattered instances of NGOs experiencing problems, but was not able to link them to the new requirements, nor could she pinpoint a specific reason why a particular NGO experienced problems with the FRS. The CDDHR report also indicated some cases of NGOs running afoul of the local FRS offices, but could identify no FRS pattern of behavior. This conclusion tracks with Embassy's assessment: in our travels around the country and frequent contacts with the NGO community, we have not discovered any systematic effort to use the amendments to shutter NGOs.

17. (SBU) We are aware of a few active organizations that were sanctioned under the NGO law. A notable case occurred on October 24 when the FRS suspended the operations of the Samara chapter of the USAID-funded election monitoring NGO Golos for six months for violating financial reporting requirements. Golos maintained that the charges were politically motivated, and that regional authorities had sought to close down Golos because of its perceived connection to opposition groups. Golos claimed that it was not given sufficient time or afforded due process to answer the allegations. Nationwide, however, Golos succeeded in fielding 3,000 observers during the December 2 Duma elections, with only a handful of its staff facing official restrictions (reftel). In the case of the Educated Media Foundation (Internews), the GOR used federal crime and tax laws to freeze the NGO's accounts and seize its computers. With respect to the Russian-Chechen Friendship Society, the GOR secured an extremism conviction against its Director, which served as the basis for the registration denial.

18. (U) The CDDHR report notes other prominent cases of NGOs experiencing bureaucratic problems with the FRS. For example, the human rights flagship "Memorial" could not register a change in its CEO because the FRS first demanded evidence that it was a "national" organization. The report documented instances of FRS warnings or refusals to register changes sometimes for minor violations or infractions. In Voronezh, the Center for Public Awareness, Arts and Cinema "Youth" was denied a change of CEO due to typographical errors in the documents. In Ryazan the local FRS suspended a local human rights group for one month because it allegedly held meetings in a private apartment. The St. Petersburg NGO Bellona was cited for undertaking commercial activity, since the FRS considered the publication of donors' names in Bellona's reports as "advertising" for sponsors. In Bashkortostan, the FRS suspended the activities of one NGO because the CEO was ill and could not be present on the day of an FRS audit. The FRS in Tyumen twice refused to register Rainbow House, a gay youth organization, as an NGO since its activities "undermined the security of the Russian

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Federation." The CDDHR report noted that these and other examples indicate that the FRS may have overstepped its authority or misinterpreted the law, but did not identify any systematic targeting of human rights NGOs.

#### NGO Noncompliance Raises Vulnerabilities

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19. (SBU) The amended NGO law has increased substantially the vulnerability of most NGOs to official scrutiny, since the vast majority of organizations are not in full compliance. According to the FRS, while NGOs were required by law to submit financial reports by April 15, only 20 percent did so. By the first of July, the compliance rate increased to 28 percent, and by October 31 to 32 percent.

110. (SBU) Although FRS Chief Vasilyev attributed this low compliance rate to the willful decision of NGOs to ignore the law, contacts in the NGO community more often note ignorance of the law itself or the difficulty of full compliance. ICNL's Miloslavskaya reported that at most 30 percent of NGOs fully understand the scope of the amended NGO law. Typically, an NGO will learn of a particular requirement only

after the FRS has conducted an audit and noted a deficiency. At that point, the organization will have earned an administrative warning. After two such warnings the organization can be shuttered.

#### Number of Active NGOs Difficult to Assess

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¶11. (SBU) An analysis of the effects of the new reporting requirements is made more difficult by the absence of any reliable data on the number of active NGOs in Russia. Prior to implementation of the 2006 amendments, non-profit or non-commercial organizations registered with the tax authority, whereas social movements or social organizations registered with the Ministry of Justice. Neither government agency routinely released statistics on the numbers of registrants. The Federal Registration Service currently has responsibility for registering both types of organizations; however, even this organization may not know the true number of NGOs. Miloslavskaya told us that in some regions the tax authority still has not transferred some NGO registration records to the local FRS.

¶12. (SBU) As a result, wildly disparate estimates circulate on the scope of Russian civil society. FRS Chief Sergey Vasilyev, in an interview with Rossiyskaya Gazeta, estimated there were 216,000 registered. In a May 2006 statement, the Ministry of Foreign Affairs cited 400,000 NGOs, whereas Moscow Helsinki Group (MHG) Chairperson Lyudmila Alekseeva alleged 650,000 in 2005, with Miloslavskaya unwilling even to provide a rough estimate of the number of NGO's operating in Russia during that time period. We could not locate corroborating information for either the MFA or MHG estimate.

Miloslavskaya maintained that the number of NGOs today does not differ much from before the amendments, since most Russian NGOs went along with the new rules and its reporting requirements as they were not subject to re-registration. ICNL had not detected any large number of NGOs declining registration under the new rules or changing status to unregistered social movements. While the ICNL report notes that the FRS applied for the closure of approximately 2,600 NGOs for failure to adhere to legislation pre-dating the April 2006 amendments (compared to 8,761 new registrations), neither ICNL nor other civil society watch groups have found evidence that these were active organizations.

#### NGO Structural Weaknesses Continue

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¶13. (SBU) Ford Foundation Director Steven Solnick told us that the endemic weakness of civil society in Russia has magnified the effect of the new amendments and reporting requirements on the NGO community. NGOs in Russia have grown too dependent on Western financing, he said, and have remained too isolated from popular opinion. Wrapping up five years as Ford Foundation head, Solnick concluded that NGOs were less resourceful now in diversifying funding. They eschewed volunteers, and remained anachronistically hostile to media campaigns and other modern tools for building ties with the public. The GOR had succeeded in "crushing" community activism, according to Solnick, and flagship human rights organizations were blinded by an elitism that flowed from a Soviet intelligentsia-like bias against the "masses." "If Putin closed Moscow Helsinki Group tomorrow," Solnick asked, "would any one come out on the streets in protest?"

¶14. (SBU) Alekseeva agreed with the thrust of Solnick's critique, but attributed civil society weakness to the

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immaturity of democracy in Russia and the fact that revolutions have always been handed down from above and not won by the people. Alekseeva expressed satisfaction that the increasingly authoritarian nature of the Putin government would mean the "fight for democracy begins now." What had been accomplished by civil society, she emphasized, was the

promulgation of knowledge and the inculcation of an expectation of human rights (which were only "so-called" in Soviet times). As long as times were good and coffers full, Alekseeva downplayed real movement forward. However, Alekseeva argued that grievances were accumulating and when they came to a boil it would be civil society's responsibility to ensure that a new generation of human rights activists was prepared to capitalize on public anger.

Comment

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¶15. (SBU) When the amendments were passed, the NGO community rightly feared that the requirements would be used to target watchdog groups and perceived opponents of the Putin regime. That has not happened and, ironically, the Western-financed human rights organizations have been among the most capable of meeting the new administrative burdens. However, the vulnerability of the NGO community to fines and selective prosecution is real. We will continue (along with EU countries and in support of Russian voices) to urge GOR reform of the NGO amendments that will ease the reporting requirements (or exempt certain categories all together), clarify the implementing legislation, define the scope of audits, and restrict the FRS's ability to close NGOs.  
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